

McDermottPlus Check-Up

McDermott+Consulting is pleased to introduce the McDermottPlus Check-Up, your regular update on health care policy from Washington, DC.



THIS WEEK'S DIAGNOSIS: Implementation of the Coronavirus Aid, Relief, and Economic Security (CARES) Act continues as lawmakers consider a fourth relief bill in response to COVID-19. The Administration increased flexibilities for providers. McDermottPlus has launched a new site compiling all of our COVID-19 related analysis, [visit us here](#).

CONGRESS

- + **CONGRESS HAS LEFT WASHINGTON, BUT EMERGENCY RELIEF EFFORTS CONTINUE.** Even with lawmakers out of DC, work is underway on a fourth relief bill in response to COVID-19. House Democrats are pushing for many of the provisions they put forth in the Take Responsibility for Workers and Families Act ([H.R. 6379](#)) to be included in the next package, and President Trump has [called for](#) the deal to include new investments in infrastructure. Democrats have also urged the Administration to reopen enrollment in the insurance exchanges, but President Trump has so far rejected the idea. We expect a fourth bill to also include any needed adjustments to the legislation that has already passed. Stakeholders should be evaluating the impact of the support that has been provided so far and letting lawmakers know what may need to be fixed or supplemented moving forward.

ADMINISTRATION

- + **ADMINISTRATION EXPANDED MEDICARE ACCELERATED AND ADVANCE PAYMENT PROGRAM.** The Centers for Medicare and Medicaid Services (CMS) [expanded its Accelerated and Advance Payment Program](#) for Medicare providers and suppliers affected by COVID-19. The CARES Act allows inpatient acute hospitals, children's hospitals and certain cancer hospitals to request up to 100% of the Medicare payment amount for a six-month period (July-December 2019). Critical access hospitals can request up to 125% of their payment amount for a six-month period. Other providers and suppliers not affected by the CARES Act can request these funds for up to 100% of their Medicare payment amount for a three-month period (October-December 2019). Repayment of the advance begins via claims reduction for all participants after 120 days. In general, providers covered by CARES will have a year to fully repay the balance; most applicants not covered by CARES will have 210 days. The [CMS Fact Sheet](#) provides specific instructions on how to apply. The program offers an avenue for some relatively quick cash flow for hospitals and physicians facing extreme revenue disruption due to COVID-19.

- + **CMS ISSUED SWEEPING SET OF TEMPORARY WAIVERS FOR HEALTHCARE PROVIDERS.** As part of its emergency response, CMS [announced](#) dozens of new temporary waivers and an [interim final rule](#) to grant healthcare providers, facilities and laboratories additional flexibilities. Section 1135 of the Social Security Act grants CMS the authority to temporarily waive requirements related to Medicare, Medicaid, the Children's Health Insurance Program (CHIP) and the Health Insurance Portability and Accountability Act during a national emergency. For example, CMS is waiving certain provider enrollment requirements to expand the workforce, eliminating burdensome paperwork requirements and expanding the list of services that can be offered via telehealth. CMS also announced a Hospital without Walls strategy to allow providers more flexibility in terms of using alternative sites to provide care. More information on the waivers is available [here](#). An update on telehealth policies is available [here](#).
- + **ADMINISTRATION PUSHED HOSPITALS FOR GREATER DATA SHARING.** The Administration sent a [letter](#) to hospitals urging them to report their COVID-19 testing data daily to the Department of Health and Human Services as well as report their bed capacity and supplies status to the Centers for Disease Control and Prevention. According to the letter, the data will help inform the Administration's understanding of disease patterns and development of mitigation policies. The Administration already collects data from public health labs, but so far has not had access to testing data from hospital labs. The letter requests that hospitals report this data by 5 PM ET each day.
- + **SBA ISSUED INTERIM FINAL RULE FOR OBTAINING LOANS UNDER PPP.** The [interim final rule](#) implements the Small Business Administration's (SBA) Paycheck Protection Program (PPP) and loan forgiveness program created by the CARES Act. The PPP is intended to provide economic relief to small businesses nationwide that are adversely affected by COVID-19 for the purposes of providing funds to support payroll costs. Through this program, the SBA can guarantee loans of up to \$10 million to eligible borrowers under the SBA's 7(a) program. Borrowers can obtain loan amounts up to two and a half months' worth of qualifying payroll costs plus outstanding principal from an Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and April 3, 2020 in order to refinance and EIDL loan. At least 75% of the loan must be used for payroll costs, though funds may be applied to other costs including rent payments, utility payments, and continuation of group medical plan payments. For purposes of determining the percentage of use of proceeds for payroll costs, the amount of any EIDL refinanced will be included. Loans made through the PPP program will have a maturity of two years and may be eligible for loan forgiveness. Loans can be made through this program through June 30, 2020 or until the program reaches \$349 billion in guaranteed loans.

STATES

- + **NEW JERSEY REQUESTED NEW AUTHORITIES UNDER ITS SECTION 1115 DEMONSTRATION.** The state's request for an amendment to its Section 1115 demonstration program would extend postpartum Medicaid coverage for eligible pregnant women, as well as provide federal funding to support the state's Substance Use Disorder Promoting Interoperability Program (SUD PIP). Currently, New Jersey's Section 1115 waiver provides Medicaid coverage for women with incomes at or below 205% of the federal poverty line (FPL) for

up to 60 days postpartum. The proposed amendment would extend coverage 180 days postpartum for women with incomes between 138% and 205% FPL. Illinois submitted a similar [waiver](#) in January, which would extend postpartum coverage to 12 months for women at or below 213% FPL. The request is still pending CMS approval. The second part of New Jersey's amendment requests approximately \$5 million in federal funding to extend the SUD PIP. As part of an effort to promote interoperability between behavioral health and physical health providers caring for individuals with SUD, New Jersey established the temporary program with state funding to provide incentive payments for providers that reached certain interoperability milestones. The requested federal funding would allow the state to maintain the program for an additional 15 months through June 2022 and provide incentive payments to all providers that meet the required milestones. CMS will accept comments on the amendment request through May 1, 2020.

QUICK HITS

- + Speaker Pelosi [announced](#) the formation of a House select committee that will oversee the federal response to COVID-19.
- + Senator Ben Sasse (R-NE) introduced a [bill](#) that would grant immunity to healthcare professionals for unapproved uses to treat COVID-19 patients, to those practicing without a license or outside of their area of specialty and for work performed outside a traditional healthcare facility.
- + CMS released an [Informational Bulletin](#) to states identifying opportunities to use telehealth to increase access to SUD treatment services under Medicaid.
- + CMS approved several more Section 1135 waivers granting states increased flexibilities during the COVID-19 public health emergency. Approved 1135 waivers are available [here](#).
- + The Food and Drug Administration issued the first [emergency use authorization](#) for a blood test that can determine if a patient has had COVID-19.
- + The Medicaid and CHIP Payment and Access Commission held its [April Public Meeting](#) via webinar. The Medicare Payment Advisory Commission (MedPAC) held its [April Public Meeting](#) in a closed-door session. MedPAC will post a transcript of the meeting by close-of-business on Friday, April 3.

M+ RESOURCES

- + The public health emergency and subsequent relief legislation in response to COVID-19 have triggered a cascade of actions from CMS designed to increase access to and use of telehealth services, and provide flexibilities for providers to complete certain administrative requirements virtually. A summary of these recent actions related to telehealth is available [here](#).

- + As part of the ongoing White House Coronavirus Task Force efforts, CMS and other agencies have issued several resource documents, refocused activities and taken other related actions. Recent key COVID-19-related activities and actions are available [here](#).
- + Our consultants discuss implementation of the CARES Act and what might be included in a “phase four” relief bill on the latest episode of the [Health Policy Breakroom](#).
- + The CARES Act created several new financial relief opportunities for healthcare providers including expansion of the Medicare Accelerated and Advanced Payment Program, direct support in the form of federal grants and the Public Health and Social Services Emergency Fund and loan opportunities for small businesses. We summarize these changes [here](#).
- + Find all M+ analysis related to COVID-19 [here](#), and be sure to follow the [COVID-19 Resource Center](#).

NEXT WEEK’S DOSE

All eyes are on the Administration, which must determine how to implement the various provisions of the CARES Act, including how to distribute \$100 billion in much-needed emergency funds to healthcare providers.

For more information, contact [Mara McDermott](#), [Rachel Stauffer](#) or [Emma Zimmerman](#).

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